

**Ackerman, Joyce**

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**From:** Jonathan H. Steeler <JSteeler@sennlaw.com>  
**Sent:** Tuesday, October 31, 2017 10:57 AM  
**To:** Lensink, Andy; Piggott, Amelia; Ackerman, Joyce; jason.king@coag.gov  
**Cc:** rdean@stratuscompanies.com; Dave Folkes; 'Dave Stewart'  
**Subject:** Drum Removal/Administrative Settlement Agreement and Order on Consent for Removal Actions ("Order")  
**Attachments:** Proposed Stratus redlined comments to EPA - Neuheiser AOC (00455842xD433....pdf; Proposed Stratus comments to EPA - Neuheiser AOC (00455302-3xD4332).docx

Andy:

Attached are my proposed revisions to the Order. For your convenience, I have included a clean copy in Word format and a redline in pdf. Please understand that these comments remain subject to review by my client and our consultants. I recognize that EPA is interested in getting this signed as quickly as possible and as such, I am available to meet with you to discuss these changes at any point during the remainder of this week.

I think most of my changes are self-explanatory but would like to point out several of the more important changes and our thoughts in connection therewith.

1. You will note that I changed the name of the site from the Neuhauser Landfill site to the Erie Drum Removal site. The "Neuhauser Landfill" name has had many meanings and locations over the last 40 years of investigations. In order to clearly identify what this order addresses I believe a clean break with past is appropriate.
2. Pursuant to our discussions, I have substantially revised the findings of fact. You and I discussed that EPA would consider changes to this section that reflect my client's position that it is an innocent land owner/bona fide prospective purchaser. In addition and as noted in the proposed Order, I would like to discuss adding to the conclusions of law section a finding of the foregoing status.
3. In the findings of fact the draft proposed by EPA (original paragraph numbers 15 and 17), there was a reference to 4-methyl-2-pentanone (MIBK) being in the liquids. Our consultant couldn't find that in the sample results but we would like to verify that this is in fact in the liquid waste. I have highlighted the reference in the attached. I want to make sure the facts are accurate.
4. I have adjusted the number of days for delivery of certain items. My client recognizes and is sensitive to EPA's desire to get this work done as quickly as possible. Please understand that my client is also interested in meeting this time frame. My client's consultant has commenced drafting a drum removal plan and it is our desire to submit a draft of the plan early next week and perhaps even before the order is signed.
5. I have significantly reduced the size of the stipulated penalties. My client believes that due to its status as a BFPP and its willingness to voluntarily commence this action which will be relatively short that it should be provided significant leniency in connection with the size of the penalties.
6. With regard to the schedule for work, my client and its contractors have committed to completing this work as quickly and efficiently as possible. While I have not made any changes to the Order in this regard, I can assure you that my client is interested in completing this work quickly. However, the timing of the actual work may be delayed due to weather. Our contractors have committed to staying in close contact with EPA's OSC with regard to work schedules.

7. While no change was made, the technical folks discussed the need for permits for the work. The EPA OCS apparently indicated that no permits would be needed so long as the substantive provisions of the necessary permits were met. Please understand that we are in fact going to file an Air Pollution Emissions Notice (APEN). In addition, while no permit will be applied for, all substantive requirements of the Colorado General Storm Water Permit for disturbances of greater than one acre will be met and all technical information will be submitted to the state if the state so requests.

Andy, I presume that both you and Jason King will distribute this draft among your respective teams as may be necessary. I look forward to getting this order finalized and the work begun. Thank you in advance for your efforts.

Jon

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